

5/26/2002 12:36 AM

TO: Wendy Wolf 212-346-2920

FROM: Dan Ellsberg

Latest corrections/deletions: from checking out notes to Chapters 30-32.

(1)

what he was hearing McNamara say to the president. The secretary of defense was pressing for the necessity of a bombing campaign against the North, which McNaughton didn't believe in, any more than I did. These meetings gave him the chance to learn that the president was dubious about it too. That was vital information of a sort that McNaughton would get only by being in the room with them. McNamara wouldn't have been likely to tell him about the president's doubts and questions, at least with any concreteness and vividness.

Those reports gave me a good impression of Johnson. For once McNamara seemed off base to me; I couldn't figure out why. The president sounded like the only sensible adult in the room. That gave me some hope that fall that things would turn out all right. (What I didn't know at the time—and I don't think John knew either—was that LBJ's own preference was to put troops in South Vietnam rather than bomb the North.) To hear from John that the president, in speaking to McNamara, regularly referred to "your bombing bullshit" made me think that Johnson was reluctant to undertake escalation of any kind and perhaps therefore open-minded about extricating us altogether.

McNaughton told me that McNamara would say of bombing, "It's something you can stop. It's a bargaining chip." When someone criticized it, as not being likely to get good results or all that easy to stop, he challenged him: "Well, what's your alternative?" Answering McNamara's question by saying, "Getting out, withdrawing, negotiating out," would have amounted to saying, "My alternative is quitting. Losing." Given the president's views, that was an answer no one in these meetings, which were in effect preparatory to discussions in front of the president, was willing to advance. It was a nonoption. As a result, McNamara's challenge and his proposed policy (which was far from his alone) looked less crazy than they really were.

McNaughton's fear, he told me one afternoon, when he had just come back from the White House, was that one day the president would turn to him and ask him what he thought about bombing. In a memoir written years later, NSC aide Chester Cooper describes having had a comparable fantasy more than once. The president would be going around the table, asking if everyone agreed with his decision, and he imagined himself saying when it came to his turn, "No, Mr. President, I do not agree!" As he was contemplating this thought, he would notice the president's eyes turning to him and he would hear himself saying, as he nodded yes, "I agree, Mr. President."

McNaughton told me, "I've asked myself what I would do." Then he

we have received from the FBI on Ellsberg. In this connection we would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the two-year period in which he was undergoing analysis.

Approve E

Disapprove

if done under your assurance that it is not traceable.

(3) We have received a letter from Director Hoover confirming that the Ellsberg case and related matters will be handled on a "Bureau Special" basis.

(4) We have tasked CIA with doing a leak assessment on all leaks since January, 1969, along the lines of the attached memorandum at Tab B.

(6) We are continuing to press the FBI to determine whether the report of a foot locker containing film magazines stored for Ellsberg with Bekins Van and Storage Company in California is indeed accurate, and what the content of the films is. The foot locker was apparently picked up by a friend of Ellsberg, a reporter for Dispatch News Service, David Obst, who indicated that the contents of the foot locker were needed for a book to be published in New York.

(7) Attached at Tab C is a memorandum from Richard Smyser on impact of (a) Ellsberg case, (b) an expose of the 1963 coup, and (c) the drug situation in South Vietnam, on (a) South Vietnamese election, (b) the U. S. election, and (c) on peace negotiations.

Mr. EHRLICHMAN. I don't see how it could. I can't explain that. I certainly can't reconcile this newspaper story this morning with my recollection. I have been rather consistent and steadfast in my testimony on this subject in various forums. As I say, I saw it very briefly before coming over here, and I am certainly not prepared to respond to it.

Mr. NEDZI. Wouldn't this be something which you would remember?

Mr. EHRLICHMAN. I dare say it would.

And I have been, I think, very plain in saying to the best of my recollection I have no prior knowledge of that event before it occurred.

Mr. NEDZI. If that were included in the proposal, would you have approved it?

Mr. EHRLICHMAN. No.

Mr. NEDZI. Why not?

Mr. EHRLICHMAN. Well, because it would be so clearly extraneous to what I would consider propriety.

Mr. HEBERT. I want to read this, Mr. Chairman.

You said "alleged," did you intend to say the story said it was alleged? I wondered what person informed them. This is a false statement?

Mr. EHRLICHMAN. I have been the unwilling recipient of 6 days running of that kind of story, of various versions of either this or some other incident.

I have a feeling I am a target at this point.

Mr. SLATINSHEK. Mr. Ehrlichman, I am going to get back to that theme I played a little while earlier. Again we had reference to this memorandum which came to you. And you recall something coming to you in broad outline, as we refer to it, and that is about it.

But what I don't understand is why it came to you at all?

Mr. EHRLICHMAN. Because the original concept of this unit was, as I have explained, it was going to stimulate, it was going to be a coordinator, it was going to cause the existing security organizations to do better. Here was a proposal for the first time to involve White House personnel in investigation. It was a departure, there isn't any question about it.

I felt under the circumstances that it was justified because we were not getting the information from the FBI. There were some internal problems, and I had verified them with the Attorney General. So I felt under the circumstances, and with the urgency of this particular problem, that with appropriate safeguards we should make this departure from the original concept.

Mr. SLATINSHEK. In other words, however, you were still in a sense overseeing this entire operation?

Mr. EHRLICHMAN. Well, this was the kind of question that the President contemplated Krogh might bring to me from time to time. He was the daily manager. And he reported to me or brought questions to me he thought necessary.

Mr. SLATINSHEK. I would like to go back to the paper that has caused so much stir in the press on the domestic intelligence proposal that had never really been implemented, but was approved by the President, and apparently was cooperated in by all of the agency heads, including Mr. Helms.

There has been concern expressed that Mr. Helms, in cooperating on

(2)

Later, alone with Haldeman, he said:

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presented a problem that couldn't be handled by a trial, the president said to Haldeman: "Actually, when Mitchell leaves as Attorney General [to run the campaign], we're going to be better off in my view. . . . John is just too damn good a lawyer, you know. He's a good strong lawyer. It just repels him to do these horrible things, but they've got to be done. We have to fight this. . . ."

(In the earlier conversation,)
Earlier that day Nixon had laid out to Haldeman, Colson, and Ehrlichman his requirements for "a man in this White House staff who's full time on the two things." The two things were, first, leaking against previous Democratic administrations, especially Kennedy's but going back to FDR and Pearl Harbor ("You know, how he knew what was happening, and he did it deliberately") to Haldeman, June 14. "Let's have a little fun. . . . It takes the eyes off of Vietnam. It gets them thinking about the past rather than our present problems." The second thing was leaking against me.

(Excerpt)
President: . . . we won the Hiss case in the papers. We did. I had to leak stuff all over the place. . . . It was won in the papers. John Mitchell doesn't understand that sort of thing. He's a good lawyer. It's hard to him. John Ehrlichman will have difficulty.

But what I mean is we have to develop now a program, a program for leaking out information. We're destroying these people in the papers. . . .

This is a game. It's got to be played in the press. That's why Mitchell can't do this. It isn't possible for him.

Haldeman: It's got to be a guy you can really trust, because it's got to be—

President: Run from the White House without being caught . . .

In the course of this conversation Colson pressed the candidacy of "one guy on the outside that has the capacity and ideological bent who might be able to do all of this. . . . He's hard as nails. . . . He just got out of the CIA. . . . His name is Howard Hunt." He added, on the basis of a phone conversation with Hunt he had surreptitiously taped and transcribed earlier that day, "Ideologically, he is already convinced this is a big conspiracy." *(no TP)*

In that call, Colson had asked Hunt about me, "Do you think this guy is a lone wolf?"

Hunt had replied, "Yes, I do: with the exception of the Eastern establishment, which certainly aided and abetted him." On the question of prosecuting me, Hunt had said, "I want to see the guy hung if it can be done to the advantage of the administration."

In a memo to Haldeman recommending Hunt, Colson mentioned, "I had forgotten when I talked to you that he was the CIA mastermind on the

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July 2, 1971, memo from Colson to Haldeman

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his refusal to talk to the FBI about me. When I heard it, that made more sense to me than anyone's supposition that they would find the kind of information they wanted in a psychoanalyst's written files ^{naive} to get him to talk about his patient would produce a great deal more information. Indeed, Barker told an interviewer for Harper's that he had looked at Fielding's income tax reports in his files and "got the impression that the good doctor was not paying all his income taxes." They told Branch they were also interested in anything they could find out about my children or my wife,

as much as anything on me, for this purpose of manipulating me. ~~Indeed, in November 1971, two months after the burglary of Dr. Fielding's office, there was a burglary of the office of a psychotherapist in New York with whom Patricia had long consulted.~~ ^{It so happens that in}

None of this excluded ^{simply} actually leaking the information that might be gained from Dr. Fielding or his files, perhaps by Colson (as one of the SIU's memos suggested at the time). In ^{their eyes} ~~their eyes~~, however, the prospect not of leaking it but of threatening to reveal something made sense. According to Branch, some rather specific objectives were discussed. Faced with some sufficiently shaming exposure, I might at a minimum be induced to refrain from further disclosures. I might even be led to flee the country for asylum in Cuba or Algeria, like Eldridge Cleaver or Timothy Leary, or even induced to commit suicide (the maximum hope of some in the FBI in sending Martin Luther King Jr. tapes of his alleged sexual adventures). I feel sure, knowing myself at that time, that nothing could have induced me to do any of those things. But it wasn't ~~crazy~~ ^{irrational} to hope otherwise. And there really was a lot at stake, as the White House reasonably understood it.

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naive

~~It is a report to him~~

they had discovered a great

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1 had looked at the contents of the sealed envelope Nissen had given him ear-
2 lier and had concluded it was not information he could receive privately. He
3 asked Nissen if he was willing to turn it over to the defense. Nissen said he
4 would have to check with his Justice Department superiors. The next
5 morning he told the judge that they had decided not to reveal the contents
6 of the memo. Byrne then called Tony and me and the attorneys on both
7 sides up to the bench, out of hearing of the press, and ordered Nissen to
8 give the document to the defense. He told us that we were entitled to this
9 information and to a hearing if we requested it.

10 I remember the moment well, in particular because it was the first time
11 in two years since my proceedings in his courtroom began that the judge
12 looked me in the face and addressed me directly. All his communications to
13 our defense team had been addressed to my lawyers; I don't recall his ever
14 having looked at me eye to eye till that moment. He said to me, "Mr. Ells-
15 berg, I don't need to reveal this information publicly. I can keep it in cam-
16 era if you wish." I took it that he meant that I might not wish it revealed
17 that I had been in psychoanalysis (a fact that *Time* magazine had already re-
18 vealed—to Howard Hunt, among others—two years earlier). I said—my
19 own first words directly to the judge since my not guilty plea—"Are you
20 kidding? Put it out!" The press rush to the phones followed shortly.

21 Our trial continued, with a fascinating surprise nearly every day. On the
22 evening of April 30 came the departures from the White House of Halde-
23 man, Ehrlichman, Kleindienst, and Dean, ^(Gray) the acting head of the FBI, ^{Gray}
24 having resigned on the twenty-seventh. As Kissinger noted in his memoirs,
25 the impression was unavoidable that the president was "no longer in control
26 of events." But that was true not just of Nixon. Early the same day my
27 lawyer Charlie Nesson got a phone message (from Mort Halperin, who was
28 in Washington), that the morning edition of the *Washington Star* reported
29 that Judge Byrne had met some weeks earlier with the president and
30 Ehrlichman at the Western White House at San Clemente to be offered the
31 job of director of the FBI.

32 Having been notified by Nesson that this report would be introduced in
33 court, Judge Byrne read a hastily drafted statement that he had had such a
34 meeting, though he had not discussed the case and had told Ehrlichman
35 that he could not discuss the job offer till the case was over. On April 30 our
36 defense lawyers had argued for an immediate hearing on the Fielding break-
37 in for the next day, with John Dean (who had been named in *Newsweek* as
38S the source to Silbert), Patrick Gray (who had admitted destroying docu-
39R ments that might have related to my case), Hunt, and Liddy to testify in our

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and silence to maintain the cover-up, from the earliest days after the Watergate arrests. That was not from a need to protect himself, or anyone in the White House, from direct implication in the Watergate break-in itself by any of those arrested in its connection, including Hunt and Liddy. Indeed, to this day no testimony or evidence has ever emerged showing foreknowledge of the Watergate burglary on June 17, 1972 (or an earlier one on May), by Nixon or any other White House official.

The reason for Nixon's direct involvement, as early as June 23, 1972, and continuing, has turned out to be his concern to keep Howard Hunt from revealing the earlier Fielding break-in and other illegal actions of the Plumbers. As we learned later, the burglary of my psychoanalyst's office in September 1971, though best known, was not the last or most dramatic of these. Eight months later, on May 3, 1972, on orders from Colson to Liddy and Hunt, the White House secretly flew a dozen Cuban-American CIA "assets" from Miami to Washington to disrupt a rally that I and others were addressing on the steps of the Capitol and to assault me physically. According to Nick Akerman, the attorney on the Watergate special prosecution task force who investigated this incident (with over one hundred interviews), their orders were "to incapacitate [me] totally." Different members of the team had different perspectives on their functions. All of them reported that Hunt and Liddy had shown them my picture (and that of Bill Kunstler, also at the rally) and told them I was the "target." Several told the FBI or WSPTF that, as one put it to *Time*, "We were to call him 'traitor' and punch him in the nose." Bernard Barker (who with Eugenio Martinez, both of them earlier participants in the Fielding break-in, recruited the team in Miami) told the journalist Lloyd Shearer later that his orders had been to "break both [my] legs." (The team found the crowd too friendly to me to make it safe to carry out their mission. Some of them instead assaulted young participants on the edge of the crowd and were led away by police, who released them to two men showing government credentials. Several of them that night were driven by Hunt and Liddy to reconnoiter "their next objective," the Watergate offices of the Democratic National Committee.)

Just weeks after this, several who had participated in both of these criminal efforts directed by the White House—the Fielding burglary and the roughing up of demonstrators on May 3—were arrested in connection with the Watergate break-in. To keep them from pointing prosecutors to earlier crimes, including those against me, that could be traced directly to the Oval Office, Nixon had to direct a cover-up personally. For most actions of Hunt

Author:
~~Wendy Wolf~~
date 7/2/02
Please supply
date.

This was the rally described earlier, five days before the morning of Watergate and eight days after Senator Gravel had released NSCM-1 which I had arranged for. The purpose of the planned assault on me, remains obscure. However, an Oval Office tape reveals that Nixon was aware that I was among the revolutionaries of NSCM-1 at this time had chosen this moment to reveal NSCM-1 at last. Whatever else I had from NSC files could be presumed to be on the verge of disclosure.

Nick Akerman, the attorney who...
one hundred interviews — told me

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in 1973 (2nd confirmed to me recently) that their orders were "to incapacitate me totally."

and Liddy when they were working for the Campaign to Reelect the President (except for the May 3 operation) the buck stopped with John Mitchell, who had left the cabinet to head the campaign. ^{Hunt and Liddy} Hunt, Liddy, and McCord, let alone the Cubans arrested in Watergate, had ~~no~~ ^{any} knowledge of any superiors higher than Mitchell in the penetration of the Watergate. But in 1971 and on May 3, 1972, Hunt and Liddy were ultimately, and unmistakably, working for the man in the Oval Office and directly for his close White House aides Ehrlichman and Colson. From the moment that arrests in the Watergate appeared likely to lead prosecutors to ~~them~~, there was an implicit threat to the president that one or both of them would be tempted or forced to reveal to prosecutors earlier crimes they had committed for the White House. That danger focused on Hunt, since Liddy was known to ^{have} ~~have~~ a Mafia-like code of silence in ~~loyalty to a leader~~ that Nixon found "crazy" but reliable.

As early as June 23, 1972, six days after the original arrests at Mitchell and Dean's suggestion, Nixon directed Haldeman and Ehrlichman to use CIA officials to induce the FBI to halt its investigation of Watergate short of Hunt and Liddy, to limit ~~is~~ indictments to those actually arrested at the scene, who did not include ~~them~~. The tape of that conversation plotting an obstruction of an FBI criminal investigation, turned over to the impeachment committee in Congress in August 1974, after a thirteen-month battle by Nixon to keep it out of its hands, was the "smoking gun" that tilted even Nixon loyalists toward certain impeachment and conviction and led to his resignation. But the threat Nixon was defending against was made absolutely explicit to ~~him~~ on the tape of his March 21, 1972, "cancer on the presidency" discussion with John Dean. Dean informed him that Hunt was demanding \$120,000 for "expenses," threatening explicitly that if he didn't get it, he would expose ^{the} ~~the~~ "seamy things" he had done for the White House. ^{the} ~~The president asked, and Dean confirmed, that this referred to~~ "Ellsberg" and "Kennedy." Nixon, overriding Dean's objections, then emphasized that there was no choice but to give Hunt money, immediately. That night \$75,000 in campaign funds were found and delivered to Hunt's lawyer. Hunt was frustrated that it wasn't more, but he did continue, for the moment, to commit perjury before the grand jury.

On May 10, ¹⁹⁷³ after daily revelations along the above lines in our trial and in Washington, the House, for the first time, voted to cut off all funding for the U.S. combat operations in Indochina, including any renewal of bombing. This was vetoed by the president. But knowing privately that he would eventually be facing a fight against impeachment (though the Ervin Com-

replied,
"What's that, on Ellsberg?" Dean ~~replied~~,
"Ellsberg, and apparently some other things."
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(Hunt and Liddy)

Nixon wanted

the "seamy things"

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trial be delayed till after both the election and the Vietnam War had been "wrapped up" proved ~~misguided~~ from their point of view.

On May 10, the new acting director of the FBI, William Ruckelshaus, informed the court that there had been, after many formal denials to the judge, FBI electronic overhearing of me. When Judge Byrne demanded reports of the overhearing, Ruckelshaus replied on the morning of May 11 that the files were missing from the FBI and the Justice Department. (It turned out they had been removed from J. Edgar Hoover's personal files by his deputy William Sullivan on order of the president at the onset of my case. The reports, which included transcripts of fifteen conversations in which I had been overheard, ~~talking to Mort Halperin or from his home, which had been tapped at Kissinger's request~~, were sure to be requested on discovery by my lawyers. Since they were evidence of illegal wiretaps requested by the president and Kissinger, Nixon wanted them out of Hoover's hands lest he blackmail the White House in various ways by threatening to reveal them to Judge Byrne.)

On May 11 our defense lawyers asked the judge to rule on their motion for dismissal of the indictment with prejudice (meaning that the defendants could not be tried again on the same charges), based on "the totality of governmental misconduct, including the suppression of evidence, the invasion of the physician-patient relationship, the illegal wiretapping, the destruction of relevant documents and the disobedience to judicial orders." ~~After the morning recess on May 11, Judge Byrne asked our lawyers if they still wished him to rule on this motion (rather than let the case proceed to the jury). Boudin, with Weinglass joining, stated that we did on the basis of "the totality of governmental misconduct."~~ The judge then stated that his ruling was based "in that scope that Mr. Boudin has just stated. It is not based solely on the wiretap, nor is it based solely on the break-in and the information that has been presented over the last several days." He went on:

Commencing on April 26, the Government has made an extraordinary series of disclosures regarding the conduct of several governmental agencies regarding the defendants in this case. . . . Much information has been developed, but new information has produced new questions, and there remain more questions than answers.

The disclosures made by the government demonstrate that governmental agencies have taken an unprecedented series of actions with respect to these defendants. After the original indictment, at a time when the government's rights to investigate the defendants are narrowly circumscribed, White House

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